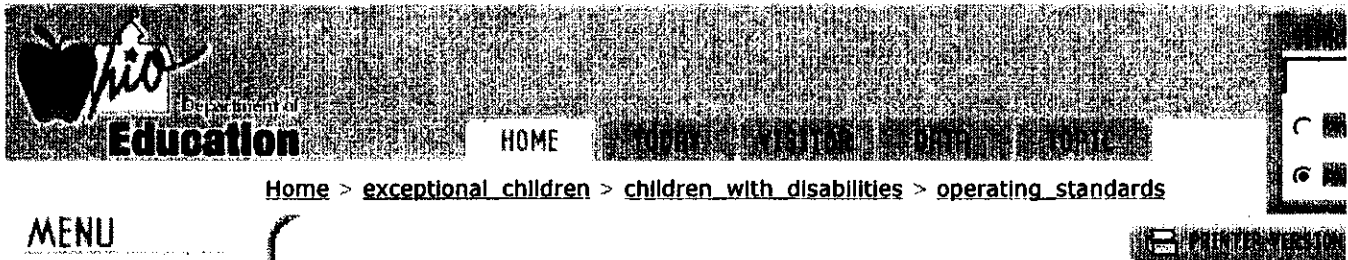


**Exhibit B**



## MENU

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# OPERATING STANDARDS FOR OHIO'S SCHOOLS SERVING CHILDREN WITH DISABILITIES

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Updated Wednesday, September 04, 2002 11:07 AM



Bob Taft, Governor | Dr. Susan Tave Zelman, Supt. of Public Instruction | [Contact ODE](#) | [Web site notes](#) | [Web Services](#) | [ODE home](#) | [Ohio home](#) | [ODE Intranet](#) | [Feedback](#) | [remote email](#)  
Ohio Department of Education, 25 South Front Street, Columbus, Ohio 43215-4183 1-(877)-644-6338  
URL: [http://www.ode.state.oh.us/exceptional\\_children/children\\_with\\_disabilities/Operating\\_Standards](http://www.ode.state.oh.us/exceptional_children/children_with_disabilities/Operating_Standards)



## Operating Standards for Ohio's Schools Serving Children With Disabilities

### 3301-51-08

#### (I) Appeal to courts

- (1) Any party aggrieved by the final decision of the state level review officer may appeal the final decision, in writing, within forty-five days of notification of the decision to
  - (a) The common pleas court of the county of the child's school district of residence as provided by section 3323.05 of the Revised Code; or
  - (b) The federal district court of competent jurisdiction.
- (2) The court shall
  - (a) Receive the records of the administrative proceedings;
  - (b) Hear additional evidence at the request of a party; and
  - (c) Basing its decision on the preponderance of the evidence shall grant the relief that the court determines to be appropriate.
- (3) In any action or proceeding brought under this rule, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the parent of a child with a disability who is the prevailing party.
- (4) Funds received under the Individuals with Disabilities Education Act may not be used to pay attorneys' fees or costs of a party related to an action or proceeding under this rule.

#### (J) Child's status during proceedings

- (1) Except as provided in paragraph (K) of rule 3301-51-05 of the Administrative Code during the pendency of any impartial due process hearing or subsequent appeals, unless the parent and the school district agree otherwise, the child involved in the complaint must remain in his or her current educational placement.
- (2) If the due process hearing involves an application for initial admission to public school, the child, with the consent of the parent, must be placed in the public school until the completion of all the proceedings.
- (3) This does not preclude the school district from using its normal procedures for dealing with children who are endangering themselves or others.



## Operating Standards for Ohio's Schools Serving Children With Disabilities

**3301-51-08**

- (4) If the decision by the state level review officer in a state level review hearing agrees with the parent that a change of placement is appropriate, then that placement must be treated as an agreement between the school district and the parent for the purpose(s) of paragraph (J)(1) of this rule.

**(K) Cost of hearings**

- (1) The school district of the child's residence shall provide one copy of the written, or at the option of the parents, an electronic verbatim record of the hearing and findings of fact and decisions to the parent at no cost.
- (2) All other costs incurred in impartial due process hearings requested by the parent shall be assumed by the school district of the child's residence, except as follows:
  - (a) Expert testimony, outside medical evaluation, witness fees, subpoena fees, and cost of counsel will be paid by the party requesting the services, and
  - (b) If requested by the parents or their attorney, additional copies of the record of the hearing and findings of fact and decisions.
- (3) When a school district, county board of MR/DD, or other educational agency providing special education and related services to a child requests the impartial due process hearing, the district, county board of MR/DD, or other educational agency will share equally the costs of the hearing with the school district of residence except those costs included in paragraph (K)(2) of this rule.
- (4) School districts shall compensate hearing officers upon invoice at an hourly rate not higher than that established for special counsel for the State of Ohio.
- (5) The Ohio Department of Education shall compensate state level review officers upon invoice at an hourly rate not higher than that established for special counsel for the State of Ohio.